

# **BOARD OF EXAMINERS FOR HEARING INSTRUMENT SPECIALIST PRACTICE ACT**



## **CHAPTER 346, RSMO STATUTES**

**BOARD OF EXAMINERS FOR  
HEARING INSTRUMENT SPECIALISTS**

**3605 Missouri Boulevard  
Jefferson City, Missouri 65102**

**Telephone: (573) 751-0240**

**Fax: (573) 526-3856**

**<http://pr.mo.gov/hearing>**

**E-mail: [behis@pr.mo.gov](mailto:behis@pr.mo.gov)**



The Honorable Michael L. Parson  
Governor

Chlora Lindley-Myers, Director  
Department of Commerce and Insurance

Sheila Solon, Division Director  
Division of Professional Registration

## **BOARD OF EXAMINERS FOR HEARING INSTRUMENT SPECIALISTS**



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## **CROSS REFERENCES**

All license, permit and certificate applications shall contain the Social Security number of the applicant, RSMo 620.127.

Assistance devices, hearing aids, lemon law, RSMo 407.950 to 407.970.

Diagnosis and treatment of medical conditions not authorized by the hearing instruments specialists act, RSMo 334.011.

# STATUTES





**346.007. Title of act.** - Sections 346.010 to 346.250 shall be known and may be cited as the “Hearing Instrument Specialists Act”.

(L. 1995 S.B. 69, et al. § 346.137)

**346.010. Definitions.** - As used in sections 346.010 to 346.250, except as the context may require otherwise, the following terms mean:

- (1) “Audiologist”, a clinical audiologist licensed pursuant to chapter 345;
- (2) “Board”, the Missouri board of examiners for hearing instrument specialists, which is established in section 346.120;
- (3) “Department”, the department of insurance, financial institutions and professional registration;
- (4) “Division”, the division of professional registration;
- (5) “Hearing instrument” or “hearing aid”, any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and that can provide more than fifteen decibel full-on gain via a two cc coupler at any single frequency from two hundred through six thousand cycles per second, and any parts, attachments, or accessories, including earmold, but excluding batteries, cords, receivers and repairs;
- (6) “Hearing instrument specialist” or “specialist”, a person licensed by the state pursuant to sections 346.010 to 346.250 who is authorized to engage in the practice of fitting hearing instruments;
- (7) “Hearing instrument specialist in-training”, a person who holds a temporary permit issued by the division to fit hearing instruments under the supervision of a hearing instrument specialist;
- (8) “License”, a license issued by the state under sections 346.010 to 346.250 to hearing instrument specialists;
- (9) “Otolaryngologist”, a person licensed to practice medicine and surgery in the state of Missouri pursuant to chapter 334 and who spends the majority of the person’s practice seeing patients with ear, nose, and throat diseases;
- (10) “Person”, an individual, corporation, partnership, joint venture, association, trust or any other legal entity;
- (11) “Practice of fitting hearing instruments”, the selection, adaptation, and sale of hearing instruments, including the testing and evaluation of hearing by means of an audiometer and the making of impressions for earmolds;
- (12) “Registration of supervision”, the process of obtaining a certificate of authority issued by the division to a hearing instrument specialist that enables the specialist to supervise one or more hearing instrument specialists in-training, as defined by division rules;
- (13) “Sell or sale”, any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers;
- (14) “Supervised training”, the program of education and experience, as defined by division rule, required to be followed by each hearing instrument specialist in-training;
- (15) “Supervisor”, a hearing instrument specialist who has filed a registration of supervision with the board and has received from the division a certificate of authority;
- (16) “Temporary permit”, a permit issued by the division while the applicant is in training to become a licensed hearing instrument specialist.

(L. 1973 H.B. 396 & 257 § 1, A.L. 1995 S.B. 69, et al., A.L. 2008 S.B. 788, A.L. 2014 S.B. 808)

**346.015. License required--exception--penalty for violation.** - 1. No person shall engage in the practice of fitting hearing instruments or display a sign or in any other way advertise or represent such person by any other words, letters, abbreviations or insignia indicating or implying that the person practices the fitting of hearing instruments unless the person holds a valid license issued by the board as provided in this chapter. The license shall be conspicuously posted in the person’s office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office, without additional payment. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license in an appropriate and public manner and shall keep the board informed of the licensee's current address. A license issued pursuant to sections 346.010 to 346.250 is the property of the board and must be surrendered on demand in the event of expiration or after a final determination is made with respect to revocation, suspension or probation.

3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail, provided that it employ only properly licensed hearing instrument specialists or properly licensed audiologists in the direct sale and fitting of such instruments. Each corporation, partnership, trust, association or other like organization shall file annually with the board on a form provided by the board, a list of all licensed hearing instrument specialists employed by it. Each organization shall also file with the board a statement, on a form provided by the board, that it agrees to comply with the rules and regulations of the board and the provisions of this chapter.

4. Any person who violates any provision of this section is guilty of a class B misdemeanor.

(L. 1973 H.B. 396 & 257 §§ 2, 3, 29, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308, A.L. 2009 S.B. 296)

**346.020. Purchase agreement, contents.** - 1. Any person who engages in the practice of fitting hearing instruments shall deliver to each person supplied with a hearing instrument a completed purchase agreement which shall include the licensee's signature, business address and the licensee's license number, together with specifications as to the make, model and serial number of the hearing instrument furnished. The terms of the sale shall be clearly stated in the purchase agreement using ordinary English language and terminology which is easily understood by the purchaser. The purchase agreement shall include, at a minimum: the exact amount of any down payment, the length of any trial period provided, the amount of any charges or service fees connected with any trial period and any right of the purchaser to return the hearing instrument. If no right exists to return the hearing instrument, the seller shall specify such in writing in the agreement. If a hearing instrument which is not new is sold, the purchase agreement and the container thereof shall be clearly marked as "used", "recased" or "reconditioned", whichever is applicable, with terms of guarantee, if any.

2. If a hearing instrument is remanufactured or assembled by someone other than the manufacturer of the component parts, the purchase agreement shall contain the name of the manufacturer of the component parts and the assembler or reassembler of such hearing instrument.

(L. 1973 H.B. 396 & 257 § 4, A.L. 1995 S.B. 69, et al.)

**346.025. Purchasers under eighteen--outside examination required.** - Any licensed hearing instrument specialist, when dealing with a person eighteen years of age or under, shall ensure that the person has been examined by an otolaryngologist or a physician licensed to practice in Missouri, or a licensed audiologist, and has received a written recommendation from such health care professional within ninety days prior to the fitting.

(L. 1973 H.B. 396 & 257 § 5, A.L. 1995 S.B. 69, et al.)

**346.030. Inapplicability of law, when.** - Sections 346.010 to 346.250 shall not apply to any audiologist licensed pursuant to chapter 345, RSMo, while practicing exclusively under that license.

(L. 1973 H.B. 396 & 257 § 6, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308)

**346.035. Exempt profession.** - Sections 346.010 to 346.250 shall not apply to a person who is a physician licensed to practice in Missouri pursuant to chapter 334, RSMo.

(L. 1973 H.B. 396 & 257 § 7, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308)

**346.045. Registration, when, fee--license issued, when.** - The board shall license each qualified applicant, without discrimination, who passes an examination as provided in this chapter and upon the applicant's payment of the examination fee and the license fee, shall issue to the applicant a license.

(L. 1973 H.B. 396 & 257 § 9, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.055. Requirements for licensure.** - 1. An applicant may obtain a license provided the applicant:

- (1) Is at least eighteen years of age; and
- (2) Is of good moral character; and
- (3) Successfully passes a qualifying examination as described under sections 346.010 to 346.250; and
- (4) (a) Holds an associate's degree or higher, from a state or regionally accredited institution of higher education, in hearing instrument sciences; or
  - (b) Holds an associate's level degree or higher, from a state or regionally accredited institution of higher education and submits proof of completion of the International Hearing Society's Distance Learning for Professionals in Hearing Health Sciences Course; or
  - (c) Holds a master's or doctoral degree in audiology from a state or regionally accredited institution; or
  - (d) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction, as determined by the board, are substantially equivalent to or exceed those required in paragraph (a) or (b) of this subdivision; or
  - (e) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing aid fitter or dispenser in another jurisdiction for no less than forty-eight of the last seventy-two months, and submits proof of completion of advance certification from either the International Hearing Society or the National Board for Certification in Hearing Instrument Sciences.

2. The provisions of subsection 1 of this section shall not apply to any person holding a valid Missouri hearing instrument specialist license under this chapter when applying for the renewal of that license. These provisions shall apply to any person holding a hearing instrument specialist-in-training permit at the time of their application for licensure or renewal of said permit.

3. (1) The board shall promulgate reasonable standards and rules for the evaluation of applicants for purposes of determining the course of instruction and training required of each applicant for a hearing instrument specialist license under the requirement of subdivision (4) of subsection 1 of this section.

(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

(L. 1973 H.B. 396 & 257 § 11, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308, A.L. 2013 S.B. 330, A.L. 2014 S.B. 808)

**346.060. Examination, written and practical required.** - An applicant for license by examination shall appear at a time, place, and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that the applicant is qualified to engage in the practice of fitting hearing instruments. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

(L. 1973 H.B. 396 & 257 § 12, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308)

**346.065. Examinations, when held.** - The board shall give examinations with sufficient frequency to permit applicants to be examined within six months following the submission of the license application.

(L. 1973 H.B. 396 & 257 § 13, A.L. 1995 S.B. 69, et al.)

**346.070. Temporary permit issued, when.** - An applicant who fulfills the requirements regarding age, character, and education as set forth in section 346.055, may obtain a temporary permit upon application to the board, as defined by board rule.

(L. 1973 H.B. 396 & 257 § 14, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.075. Fee for temporary permit--supervision and training required for temporary permit**

**holder.** - 1. Upon receiving an application as provided under section 346.070 and accompanied by a temporary permit fee, the board shall issue a temporary permit which shall entitle the applicant to engage in supervised training for a period of one year. A holder of a temporary permit who is engaged in supervised training under a supervisor is authorized to use only the title "hearing instrument specialist in-training", or its equivalent, as defined by board rule. A hearing instrument specialist in-training shall not hold himself out to the public by any title, term, or words that give the impression that the permit holder is a licensed hearing instrument specialist. The division, upon recommendation of the board, shall have the power to suspend or revoke the temporary permit of any person who violates the provisions of this subsection.

2. A licensed hearing instrument specialist shall be responsible for the supervised training of no more than two holders of a temporary permit and shall maintain adequate supervision, as defined by board rule. The board shall issue a certificate of registration to a hearing instrument specialist who has qualified himself or herself to provide supervised training to permit holders. The qualifications for a supervisor shall be established by board rule. A fee shall be charged for any registration of supervision, as defined by board rule. The division may withdraw the certificate of authority from any supervisor who violates any provision of sections 346.010 to 346.250 or any rule promulgated pursuant thereto.

(L. 1973 H.B. 396 & 257 § 15, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.080. Temporary permit renewed, when--temporary license issued, when--bond required for temporary licensee.**

- If a hearing instrument specialist in-training under this section or section 346.075 has not successfully passed the licensing examination within one year from the date of issuance of the temporary permit, the temporary permit may be renewed by the board once for a period of six months upon payment by the applicant of a fee, as defined by board rule.

(L. 1973 H.B. 396 & 257 § 16, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.085. Examination - standards to be promulgated.** - 1. The qualifying examination provided in section 346.060 shall be designed to demonstrate the applicant's adequate technical qualifications in the practice of fitting hearing instruments as defined by the board.

2. The board shall promulgate reasonable standards and rules that identify and describe the required technical knowledge and skill of fitting hearing instruments necessary to prepare each applicant for licensure by testing. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

(L. 1973 H.B. 396 & 257 § 17, A.L. 1995 S.B. 69, et al., A.L. 2013 S.B. 330)

**346.090. Licensee to report address of business to board, record to be kept--notices, sent**

**where.** - 1. A licensee shall notify the board in writing of the regular address of the place or places where the licensee engages or intends to engage in the practice of fitting hearing instruments, and the board shall keep a record of the place of business of licensees.

2. Any notice required to be given by the board to a person who holds a license shall be mailed to the licensee at the address of the last known place of business.

(L. 1973 H.B. 396 & 257 §§ 18, 19, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.095. Renewal, fee, completion of educational program and calibration of equipment required--late renewal, fee, limit.**

- Each person who engages in the practice of fitting hearing instruments shall, on or before the renewal date, pay to the board the required fee, present written evidence to the board of annual calibration

of all audiometers, and furnish to the board satisfactory evidence of having successfully completed an educational program approved by the board. The licensee shall keep such license conspicuously posted in licensee's office or place of business at all times. Where more than one office is operated by the licensee, duplicate licenses shall be issued by the board for posting in each location. After the expiration date of a license, the board may renew a license upon payment of the required penalty fee to the board. No person whose license has expired shall be required to submit to any examination as a condition of renewal, provided such renewal application is made within two years from the date of such expiration and all renewal requirements have been met as set forth in this section.

(L. 1973 H.B. 396 & 257 § 20, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.100. Complaints against licensees, how made, hearing--sanctions--records.** - 1. Any person wishing to make a complaint against a licensee under sections 346.010 to 346.250 shall reduce the same to writing and file the complaint with the board, setting forth the details thereof upon which the complaint is based. If the board, following an investigation, determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under sections 346.010 to 346.250 shall be suspended or revoked, the board shall file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of section 346.105, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license or certificate.

3. The board shall maintain an information file containing each complaint filed with the board relating to a licensee. The board, at least quarterly, shall notify the complainant and licensee of the complaint's status until final disposition.

(L. 1973 H.B. 396 & 257 § 21, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.105. Denial, revocation, or suspension of license, grounds for.** - 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter, upon recommendation of the board, for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or against any person who has failed to renew or has surrendered such person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualification, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;



- (7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;
- (8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;
- (9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;
- (10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;
- (11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;
- (12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;
- (13) Violation of any professional trust or confidence;
- (14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
- (15) Representing that the service or advice of a person licensed as a physician pursuant to chapter 334, RSMo, will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing instruments when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state-licensed clinic", "state registered", "state certified", or "state approved" or any other term, abbreviation, or symbol when it would falsely give the impression that service is being provided by physicians licensed pursuant to chapter 334, RSMo, or by audiologists licensed pursuant to chapter 345, RSMo, or that the licensee's service has been recommended by the state when such is not the case.

(L. 1973 H.B. 396 & 257 § 22, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al. A.L. 2009 S.B. 296)

#### **346.110. Prohibited acts.** - No person shall:

- (1) Sell through the mails, hearing instruments without prior fitting and testing by a hearing instrument specialist licensed under this chapter or an audiologist licensed under chapter 345, RSMo;
- (2) Sell, barter, or offer to sell or barter a license;
- (3) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting hearing instruments;
- (4) Alter a license with fraudulent intent;
- (5) Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered;
- (6) Willfully make a false statement in an application for license or application for renewal of a license.

(L. 1973 H.B. 396 & 257 § 23, A.L. 1995 S.B. 69, et al., A.L. 2007 H.B. 780 merged with S.B. 308)

(2006) Section prohibiting mail order sales of hearing instruments without prior fitting and testing is preempted by Medical Devices Amendment to the Food, Drug and Cosmetics Act. Missouri Board of Examiners for Hearing Instrument Specialists v. Hearing Help Express, Inc., 447 F. 3d 1033 (8th Cir.).

#### **346.115. Powers and duties of division.** - The powers and duties of the division are as follows:

- (1) To exercise all budgeting, purchasing, reporting and other related management functions;
- (2) To employ, within the funds appropriated, such staff as are necessary to carry out the provisions of sections 346.010 to 346.250.

(L. 1973 H.B. 396 & 257 § 24, A.L. 1981 S.B. 16, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3 merged with S.B. 69, et al., A.L. 2009 S.B. 296)

**346.120. Board of examiners for hearing instrument specialists--qualifications, terms, appointment, compensation and expenses of members.**

- 1. There is hereby established the "Missouri Board of Examiners for Hearing Instrument Specialists", which shall guide, advise and make recommendations to the division. The council for hearing aid dealers and fitters is abolished. Nothing herein shall be construed to prevent the appointment of any current member of the council for hearing aid dealers and fitters to the Missouri board of examiners for hearing instrument specialists upon August 28, 1995.

2. Members of the board shall be United States citizens and residents of the state for a period of not less than one year. The board shall consist of five hearing instrument specialists, one otolaryngologist, one voting public member and one audiologist holding a certificate of clinical competence and licensed pursuant to chapter 345, RSMo. Each hearing instrument specialist on the board shall have no less than five years of experience in the practice of fitting hearing instruments and shall hold a valid license as a hearing instrument specialist as provided in sections 346.010 to 346.250.

3. Each member of the board shall be appointed by the governor with the advice and consent of the senate. The term of office of each member shall be for four years, except that the first board appointed shall consist of two members, one of which shall be the public member, whose terms shall be for four years, two members whose terms shall be for three years, two members whose terms shall be for two years and two members whose terms shall be for one year. Upon the expiration of a member's term, the governor shall appoint a successor. The members of the board shall annually designate one member to serve as chairperson and another to serve as vice chairperson. Upon the absence of the chairperson, the vice chairperson shall assume the duties of the chairperson.

4. No member of the board who has served a full term may be reappointed to the board until at least one year after the expiration of the member's term of office.

5. Each member of the board shall receive as compensation an amount set by the division for each day devoted to the affairs of the board and shall be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's duties.

6. The public member shall be at the time of appointment a citizen of the United States, a resident of this state for a period of one year and a registered voter; a person who is not, and never was, a member of any profession licensed or regulated under this chapter or the spouse of such person; and a person who does not have, and never has had, a material financial interest in either the providing of the professional services regulated by this chapter, or any activity or organization directly related to any profession licensed or regulated under this chapter. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

7. No member of the board shall use his or her position on the board to advance any financial or material interest the member may have in the provision of professional services regulated by sections 346.010 to 346.250. Members of the board may be removed from office for cause. Upon death, resignation or removal from office of any member of the board, any such vacancy shall be filled by the governor.

8. The board may sue and be sued as the Missouri board of examiners for hearing instrument specialists, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act committed in the performance of their official duties as board members, nor shall any board member be personally liable for any costs which accrue in any action by or against the board.

(L. 1973 H.B. 396 & 257 § 25, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al.)

**346.125. Board, duties.**

- 1. The board shall:

- (1) Issue and renew permits, licenses, and certificates of registration or authority;
- (2) License persons who apply to the board and who are qualified to engage in the practice of fitting hearing instruments;
- (3) Obtain facilities necessary to carry out the examination of applicants as provided in section 346.035;
- (4) Receive and process complaints;
- (5) Review all complaints, authorize investigations wherein there is a possible violation of sections 346.010 to 346.250 or regulations promulgated pursuant thereto, and make recommendations to the division regarding any filing with the administrative hearing commission;

(6) Recommend for prosecution any person who has violated any provisions of sections 346.010 to 346.250 to an appropriate prosecuting attorney or circuit attorney;

(7) Make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of sections 346.010 to 346.250. Such rules shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void;

(8) Adopt and publish a code of ethics;

(9) Set the amount of the fees authorized under this chapter and required by rules promulgated under chapter 536, RSMo. The board shall set fees which reflects the cost and expense of administering this chapter;

(10) Establish an official seal;

(11) Provide an examination for applicants. The board may obtain the services of specially trained and qualified persons or organizations to assist in developing or conducting examinations;

(12) Review the examination results of applicants for licensure;

(13) Determine the appropriate educational requirements, as defined by division rule, for any applicant desiring to be registered as a permit holder, a hearing instrument specialist, or a supervisor;

(14) Follow the provisions of the division's administrative practices and procedures in conducting all official duties.

2. The chairperson or vice chairperson shall have power to administer oaths and to subpoena witnesses to require attendance and testimony and to require production of documents and records, and to that end the board may invoke the aid of the circuit court of any county of the state having jurisdiction over the witness, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(L. 1973 H.B. 396 & 257 § 26, A.L. 1981 S.B. 16, A.L. 1995 S.B. 69, et al., A.L. 2009 S.B. 296)

**346.130. Board meetings, when.** - The board shall meet not less than twice each year at a place, day and hour determined by the board. The board shall also meet at such other times and places as may be requested by the division or on the call of the chairperson.

(L. 1973 H.B. 396 & 257 § 27, A.L. 1995 S.B. 69, et al.)

**346.135. Hearing instrument specialist fund, created, uses--amount of fund to lapse.** - 1. All fees and charges payable pursuant to this chapter shall be collected by the division and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Hearing Instrument Specialist Fund", which is hereby created. Money in the hearing instrument specialist fund shall be available by appropriation to the council to pay its expenses in administering sections 346.010 to 346.250.

2. Money in the hearing instrument specialist fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the council's funds for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriation from the council's funds for the preceding year.

(L. 1973 H.B. 396 & 257 § 28, A.L. 1981 S.B. 16, A.L. 1995 S.B. 58 merged with S.B. 69, et al., A.L. 2004 S.B. 1122)

**346.137. Licensure under other chapters.** - No part of this act\* shall be construed to allow individuals to diagnose and treat medical conditions pursuant to chapter 334, RSMo.

(L. 1995 S.B. 69, et al. § 1)



\*"This act" (S.B. 69, et al., 1995) contains numerous sections. Consult Disposition of Sections Table for a definitive listing.

**346.250. Violations of law, penalties.** - 1. Any individual, firm, corporation, partnership, trust, or association, and any officer, director, partner, trustee, agent, or employee thereof who violates the provisions of section 346.110 is guilty of a class B misdemeanor. Each violation shall be deemed a separate offense and prosecuted individually.

2. In addition to other remedies, an action of injunction may be brought and maintained by the state of Missouri to enjoin any violation of section 346.110.

(L. 1984 H.B. 1036 §§ 1, 2, A.L. 1995 S.B. 69, et al.)



# RULES



**Title 20--DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2165--Board of Examiners for Hearing Instrument Specialists**  
**Chapter 1--General Rules**

**20 CSR 2165-1.010 General Organization**

**PURPOSE:** *This rule describes the Board of Examiners for Hearing Instrument Specialists operation and the methods of communication with the board.*

(1) The purpose of the board is to regulate the practice of fitting hearing instruments involving public health, safety, and welfare of this state; to protect the inhabitants of this state from harm due to dangerous, dishonest, incompetent, or unlawful practice of fitting hearing instruments.

(2) The presence of at least five (5) board members constitutes a quorum for the transaction of business at any meeting.

(3) Each year the board shall elect a chairperson and vice-chairperson. It shall be the chairperson's duty to preside at all meetings and if the chairperson is unable to attend any meeting, the vice-chairperson will preside. The chairperson exercises general supervision of the affairs of the board and works with the division on coordinating board affairs.

(4) The director of the Division of Professional Registration or a designated representative is responsible for keeping the minutes of board proceedings and will perform other duties as requested by the board.

(5) All meetings shall be posted according to section 610.020, RSMo, and information may be obtained by contacting the office at, PO Box 1335, Jefferson City, MO 65102- 1335, behis@pr.mo.gov, (573) 751-0240, or with the TDD number (800) 735-2966.

(6) Unless otherwise provided by the statutes or regulations, all meetings of the board will be conducted according to Robert's Rules of Order.

(7) Members of the public may request a meeting before the board by writing to PO Box 1335, Jefferson City, MO 65102-1335 or emailing the request to behis@pr.mo.gov.

**AUTHORITY:** section 346.125, RSMo 2016.\* This rule originally filed as 4 CSR 165-1.010. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-1.010, effective Aug. 28, 2006. Amended: Filed Oct. 26, 2020, effective April 30, 2021.

*\*Original authority: 346.125, RSMo 1973, amended 1981, 1995, 2009.*

**20 CSR 2165-1.020 Fees**

**PURPOSE:** *This rule establishes the fees for the Board of Examiners for Hearing Instrument Specialists.*

(1) The following fees are established by the Board of Examiners for Hearing Instrument Specialists and are payable in the form of a cashier's check, money order, or personal check:

|  |        |
|--|--------|
| (A) Hearing Instrument Specialist Application Fee .....              | \$ 250 |
| (B) Hearing Instrument Specialist in Training Application Fee .....  | \$ 250 |
| (Also known as temporary permit fee)                                 |        |
| (C) Practical Exam Fee .....   | \$ 150 |
| (D) Registration of Supervision.....                                 | \$ 75  |
| (Licensed Hearing Instrument Specialist One-Time Fee)                |        |
| (E) Change of Supervision Fee .....                                  | \$ 25  |
| (Hearing Instrument Specialist in Training)                          |        |
| (F) Temporary Permit Extension .....                                 | \$ 175 |
| (G) License Renewal  |        |
| 1. Active.....   | \$ 400 |
| 2. Inactive.....   | \$ 200 |
| (H) Reactivation Fee   |        |
| 1. One (1) to sixty (60) days after expiration date of license ..... | \$ 100 |

- 2. Sixty-one (61) days to two (2) years after expiration  
date of license ..... \$ 250
- (I) Endorsement to Another State..... \$ 10
- (J) Replacement Wall Hanging ..... \$ 15
- (K) Insufficient Funds Check..... \$ 25

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction.

*AUTHORITY: section 346.125, RSMo Supp. 2013. \* This rule originally filed as 4 CSR 165-1.020. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1997. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed April 30, 1999, effective Oct. 30, 1999. Amended: Filed July 30, 2001, effective March 30, 2002. Moved to 20 CSR 2165-1.020, effective Aug. 28, 2006. Amended: Filed Oct. 16, 2006, effective April 30, 2007. Amended: Filed July 1, 2008, effective Jan. 30, 2009. Amended: Filed Sept. 13, 2013, effective Feb. 28, 2014.*

*\*Original authority: 346.115, RSMo 1973, amended 1981, 1993, 1995, 2009.*

## 20 CSR 2165-1.030 Custodian of Public Records

**PURPOSE:** *This rule sets forth the written policy in compliance with Chapter 610, RSMo, regarding the release of information on any meeting, record, or vote of the Board of Examiners for Hearing Instrument Specialists.*

(1) The Board of Examiners for Hearing Instrument Specialists is a public government body as defined in Chapter 610, RSMo, and adopts the following as its written policy for compliance with that chapter. This policy is open to public inspection and implements the provisions in Chapter 610, RSMo, regarding the release of information on any meeting, record, or vote of the Board of Examiners for Hearing Instrument Specialists which is not closed under the provisions of Chapter 610, RSMo.

(2) All public records of the board will be open for inspection and copying by any member of the general public during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays), except for the records closed under section 610.021, RSMo.

(A) The board may charge a reasonable fee for document searches and to copy requested records. The fees charged are as follows:

- 1. A fee for a document search (research) shall not exceed the actual cost of the document search; and
- 2. A fee for copying public records shall not exceed the actual cost of duplication.

(3) All public meetings or portions of public meetings of the board not closed under section 610.021, RSMo, will be open to any member of the public.

(4) The division establishes the executive director of the board as the custodian of its records pursuant to section 610.023, RSMo. The executive director is responsible for maintaining records and responding to requests for access to public records.

(5) Responding to Request for Access.

(A) If the custodian is uncertain whether requested access to public records is required under Chapter 610, RSMo, the custodian will consult with legal counsel before deciding whether to deny the access. If that contact by the custodian is not practicable or is impossible the custodian may make a decision to deny access pending consultation with legal counsel and give the reason for delay to the person requesting the information within three (3) days. However, in those circumstances, the custodian shall consult with legal counsel within five (5) working days of the decision.

(B) When access is denied, the custodian will comply with the requirements in section 610.023, RSMo, concerning informing the individual requesting access to the records of the grounds for denying the request.

(6) The custodian shall maintain a file, which will be retained for at least two (2) years, of all written requests for access to records and responses to requests. This file shall be maintained as a public record of the board open for inspection by any member of the general public during regular business hours as noted in 20 CSR 2165-1.030(2).

*AUTHORITY: section 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-1.030. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-1.030, effective Aug. 28, 2006. Amended: Filed June 27, 2008,*

*effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.125, RSMo 1973, amended 1981, 1995, 2009.*

**Title 20-- DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2165--Board of Examiners for Hearing Instrument Specialists**  
**Chapter 2--Licensure Requirements**

**20 CSR 2165-2.010 Hearing Instrument Specialist in Training (Temporary Permits)**

**PURPOSE:** *This rule clarifies the process by which an individual may apply for a permit to practice as a hearing instrument specialist in training, and defines time limit and supervision requirements for the temporary permit holder.*

(1) Any individual seeking to develop the skills and training necessary to obtain a license under section 346.075, RSMo, shall register supervision and apply for a temporary permit to engage in the practice of fitting hearing instruments as defined by section 346.010(11), RSMo. An application for registration of supervision shall be made on a form provided by the board and must be accompanied by the appropriate fee as prescribed in 20 CSR 2165-1.020. The application shall not be considered proper and final until qualifications of the supervisor match the criteria as prescribed in 20 CSR 2165-2.020.

(2) An approved temporary permit shall entitle the hearing instrument specialist in training to engage in the practice of fitting hearing instruments as defined by section 346.010(11), RSMo, for a period of one (1) year.

(A) If a person holding a permit has not passed the examination within the one (1)-year period, the hearing instrument specialist in training may renew the permit once for a period of six (6) months upon payment of the applicable fee as prescribed in 20 CSR 2165-1.020.

(B) The six (6) month renewal term shall commence immediately following the expiration of the temporary permit, regardless of when the renewal application is received by the board, such that a hearing instrument specialist in training shall not hold a temporary permit beyond eighteen (18) months from the date the temporary permit was originally issued.

(3) The hearing instrument specialist in training shall accrue no less than one hundred (100) hours of supervision from a licensed hearing instrument specialist registered as a supervisor pursuant to 20 CSR 2165-2.020 prior to becoming eligible for licensure by examination.

(4) If the hearing instrument specialist in training ceases to practice under an approved supervisor and/or changes supervision s/he shall notify the board by filing a change of supervision form and paying the change of supervision fee as defined in 20 CSR 2165-1.020. The change of supervision is subject to review pursuant to 20 CSR 2165-2.010(2).

(5) Each applicant for a hearing instrument specialist in training permit as provided in section 346.075, RSMo, must indicate on the application form the name, business address and license number of the registered supervisor.

(6) The practice of fitting hearing instruments by a hearing instrument specialist in training shall be performed according to the registered supervisor's order, control, guidance and professional responsibility.

(7) A hearing instrument specialist in training shall be trained in the following procedures during his/her training period:

(A) Air conduction thresholds, with masking where appropriate;

(B) Bone conduction thresholds, with masking where appropriate;

(C) Speech reception thresholds, with masking where appropriate, utilizing test equipment with a calibrated circuit;

(D) Word recognition scores, with masking where appropriate, utilizing test equipment with a calibrated circuit;

(E) A verification of hearing instrument benefit;

(F) Ear impressions; and

(G) Visual otoscopy.

(8) As a part of the training of a hearing instrument specialist in training, s/he shall attend classes that would be approved for a licensee to renew his/her license under 20 CSR 2165-2.050.

(A) Three (3) hours of such training shall be completed every six (6) months.

(B) A person in training less than six (6) months need not complete such training.



(C) Proof of completion of such training shall be attached to the attestation form completed by the registered supervisor.

(9) Upon completion of any registered supervised experience, the hearing instrument specialist in training shall request an attestation form from the board to be completed by the registered supervisor and returned to the board.

(10) The hearing instrument specialist in training must be identified by a temporary permit number and use one of the following titles: "hearing instrument specialist in training," "trainee" or "temporary permit holder" in any sales contract or other documents available to the consumer, and referring to the temporary permit holder. Initials or acronyms representing these titles shall not be used.

(11) A temporary permit is not required for students attending a hearing sciences program at an accredited college or university that are participating in a practicum to complete that program. The student must be under the direct supervision of a registered supervisor. Direct supervision shall mean the licensed hearing instrument specialist is on the premises where the patient is being treated and is quickly and easily available and the patient has been examined by a licensed hearing instrument specialist at such times as acceptable hearing instrument specialist practice requires. Such student shall not identify themselves as a "hearing instrument specialist," "hearing instrument specialist in training" or a "temporary permit holder".

*AUTHORITY: sections 346.070, 346.075, 346.080 and 346.115.1(7), RSMo 2000. \* This rule originally filed as 4 CSR 165-2.010. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1997. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed April 1, 2003, effective Sept. 30, 2003. Amended: Filed March 15, 2004, effective September 30, 2004. Moved to 20 CSR 2165-2.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Dec. 30, 2008, effective July 30, 2009.*

*\*Original authority: 346.070, RSMo 1973, amended 1995; 346.075, RSMo 1973, amended 1981, 1995; 346.080, RSMo 1973, amended 1981, 1995; and 346.115, RSMo 1973, amended 1981, 1993, 1995.*

## **20 CSR 2165-2.020 Supervisors**

**PURPOSE:** *This rule outlines and explains the responsibilities and requirements of a registered supervisor.*

(1) A licensed hearing instrument specialist may obtain a certificate of registration as a registered supervisor by completing an application from the board and paying the fee as defined in 20 CSR 2165-1.020.

(2) A registered supervisor must be licensed in Missouri as a hearing instrument specialist for a minimum of two (2) years.

(A) A licensed hearing instrument specialist who holds any professional license which is or has ever been subject to any form of discipline may be prohibited from serving as a supervisor; and

(B) A licensed hearing instrument specialist shall be credentialed as a Board Certified Hearing Instrument Specialist (BC-HIS) or the American Conference of Audioprosthology (ACA) or be a licensed audiologist pursuant to Chapter 345, RSMo, and licensed as a hearing instrument specialist in order to qualify as a registered supervisor.

(3) The registered supervisor shall exercise full order, control, guidance, and professional responsibility involved in the practice of fitting hearing instruments by a hearing instrument specialist in training.

(4) The registered supervisor shall meet with the hearing instrument specialist in training at least once per workweek, face-to-face, to review all audiometric evaluations, whether a purchase is made or not, purchase agreements, instrument orders, ear impressions, and all hearing instrument fittings. The registered supervisor must affix his/her signature and license number to purchase agreements and audiometric evaluation results.

(5) Within thirty (30) days of completion of registered supervision, pursuant to 20 CSR 2165-2.010(5) the registered supervisor shall document the supervision and training on an attestation form provided by the board.

(6) Upon termination of registered supervision, the registered supervisor shall submit both the attestation form and temporary permit to the board within thirty (30) days.

*AUTHORITY: sections 346.075.2 and 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-2.020. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-2.020, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.075, RSMo 1973, amended 1981, 1995, 2009 and 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## 20 CSR 2165-2.025 Application Procedures

**PURPOSE:** *This rule outlines the procedure for applying for licensure as a hearing instrument specialist and/or a hearing instrument specialist in training.*

(1) Applications for licensure must be made on the forms provided by the board. Application forms may be obtained by requesting them from the Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102 or on the board's website [www.pr.mo.gov/hearing.asp](http://www.pr.mo.gov/hearing.asp).

(2) An application must be legible (printed or typed), signed, notarized, and accompanied by the appropriate fees. The fee must be in the form of a cashier's check, personal check, or money order.

(3) The following documents must be on file for an application to be considered complete:

(A) Completed application;

(B) Appropriate fee;

(C) Proof of acceptable educational credentials as evidenced by an official transcript sent directly to the board by the school;

(D) A current, standard passport photo, one and one-half inches by two inches (1.5" × 2.0"), must be attached to the application; and

(E) Verification of licensure must be submitted by each state where the applicant has ever been licensed. Verification of licensure shall contain information concerning the requirements in force at the time the applicant was licensed, the method of licensing including examination results, date of original licensure, and current status of the applicant's license.

(4) All forms must be completed and received by the board by the established deadline.

(5) Applications for licensure are valid for a period of three (3) years from the date the application is received in the board's office. If an applicant has not completed the application process within the three(3-) year period, the applicant will be denied and must complete a new application for licensure, submit all required documentation, and pay all applicable fees. If an applicant must reapply for licensure, all current licensure requirements must be met.

*AUTHORITY: sections 346.050, 346.055, 346.115, and 346.125, RSMo Supp. 2012.\* Original rule filed Sept. 8, 2008, effective March 30, 2009. Amended: Filed Jan. 10, 2013, effective July 30, 2013.*

*\*Original authority: 346.050, RSMo 1973, amended 1995, 2009; 346.055, RSMo 1973, amended 1981, 1995, 2007; 346.115, RSMo 1973, amended 1981, 1993, 1995, 2009; and 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## 20 CSR 2165-2.030 Licensure by Examination

**PURPOSE:** *This rule outlines and explains the requirements and procedures for obtaining a hearing instrument specialist license by examination.*

(1) Applications for the written examination shall be received by the board prior to the written examination. Applications for the practical examination shall be received by the board at least thirty (30) days prior to the next scheduled practical examination.

(2) Applicants with special needs addressed by the Americans with Disabilities Act must notify the board office or its approved vendor at least thirty (30) days prior to the examination to ensure that reasonable accommodations are made. Notification may be forwarded in writing and mailed to the Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102 or by calling (573) 751-0240. The TDD number for the hearing impaired is (800) 735-2966.

(3) The practical examination will be administered at least every six (6) months. The written and practical examinations may be administered on different days.

(4) The written and practical portions of the examination may be administered by the board or its approved vendor utilizing a national testing service or other examination at the board's discretion.

(5) The applicant shall pass the written examination to be eligible for the practical portion of the examination. The written examination scores shall be received by the board at least thirty (30) days prior to the next scheduled practical examination.

(6) The following procedures and requirements apply to the practical examination:

(A) It shall be the responsibility of the applicant to furnish all equipment needed. In order to ensure the integrity of the practical portion of the examination and that it adequately tests the applicant's abilities, the board or its approved vendor may determine what equipment an applicant is permitted to use and may prohibit the use of any particular equipment containing memory storage or automated testing procedures, unless it can be demonstrated and verified that the memory can be erased or the feature deactivated. Equipment shall be in good working order as evidenced by a receipt of annual calibration of the audiometer. Failure to have the necessary equipment will be sufficient reason to disallow the applicant the opportunity to take the practical portion of the examination and cause forfeiture of the examination fee. If the applicant wishes to take the next scheduled practical portion of the examination, the applicant must reapply and pay the practical examination fee; and

(B) The practical portion of the examination may be conducted at the discretion of the board or its approved vendor either using simulators or live subjects for all or part of the examination, except that all persons taking the examination on a specific date shall be tested in the same manner. A time limit may be imposed for any part of the practical portion of the examination provided that: 1) this time limit is established by the board or its approved vendor prior to the examination; and 2) that it is applied uniformly.

(7) Requirements for Passing the Written Examination.

(A) The board or its approved vendor shall determine the passing score according to the standards of the examination.

(B) If the applicant fails the written portion of the examination, the applicant shall retake the entire written examination.

(8) If the applicant fails one (1) or more portions of the practical examination, the applicant shall retake the entire practical examination upon payment of the practical examination fee.

(9) An applicant who fails the practical examination and two (2) subsequent re-examinations shall be disqualified from retaking the examination a fourth time, until meeting with the board, presenting a written plan for passing the examination, and obtaining the board's approval for retaking the examination. In the case of a hearing instrument specialist in training, the current registered supervisor, as defined in section 346.010(15), RSMo, must be present at the meeting with the board.

*AUTHORITY: sections 346.060, 346.085, 346.115, and 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-2.030. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed April 1, 2003, effective Sept. 30, 2003. Moved to 20 CSR 2165-2.030, effective Aug. 28, 2006. Amended: Filed Dec. 30, 2008, effective July 30, 2009. Amended: Filed Jan. 10, 2013, effective July 30, 2013. Amended: Filed Sept. 13, 2013, effective Feb. 28, 2014. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.060, RSMo 1973, amended 1995, 2007; 346.085, RSMo 1973, amended 1995, 2013; 346.115, RSMo 1973, amended 1981, 1993, 1995, 2009; and 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## **20 CSR 2165-2.035 Issuance of Temporary Courtesy License to Nonresident Military Spouse**

**PURPOSE:** *This rule states the requirements and procedures for a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty to obtain a temporary courtesy license to practice as a hearing instrument specialist for one hundred eighty (180) days.*

(1) The board shall grant a temporary courtesy license to practice as a hearing instrument specialist without written examination to a "nonresident military spouse" as defined in 324.008.1, RSMo who provides proof that such applicant's qualifications meet or are at least equivalent to the requirements for initial licensure in this state and who provides the board the following:

(A) A completed application form;

(B) A non-refundable application fee, as established by the board pursuant to rule, made payable to the Board of Examiners for Hearing Instrument Specialists;

(C) Verification of spouse's active military duty;

(D) Proof that the applicant has been engaged in active practice in the state, district, or territory of the United States in which the applicant is currently licensed for at least (2) years in the five (5) years immediately preceding this application;

(E) Verification sent directly to the board from each state, district, or territory of the United States in which the applicant

has ever been licensed verifying that—

1. The applicant is in good standing;
2. The applicant has not committed an act in any jurisdiction where the applicant has or had a license that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice; and
3. The applicant has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding by a licensing or credentialing entity in another jurisdiction; and

(F) Such additional information as the board may request to determine eligibility for a temporary courtesy license.

(2) Any temporary courtesy license issued pursuant to this rule shall be valid for one hundred eighty (180) days from the date of issuance and may be extended for another one hundred eighty (180) days upon submission of a written request by the holder of the temporary courtesy license.

(3) If a nonresident military spouse seeks full licensure in this state during the time while the temporary courtesy license is valid, he or she may request full licensure by filing an application for licensure and meeting the requirements pursuant to section 346.055, RSMo. Any fees paid for a temporary courtesy license shall be credited towards the application fees due for full licensure.

*AUTHORITY: sections 324.008 and 346.125, RSMo 2016. \* Original rule filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 324.008, RSMo 2011 and 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## **20 CSR 2165-2.040 Licensure by Reciprocity**

*PURPOSE: This rule outlines the requirements for applying for licensure by reciprocity.*

(1) An applicant with a license to engage in the practice of fitting hearing instruments in another state or jurisdiction as defined in section 346.050, RSMo, may be granted licensure in Missouri without examination provided the applicant submits evidence of his/her qualifications acceptable to the board in accordance with 20 CSR 2165-2.025.

(2) For the purpose of this rule, “evidence acceptable to the board” shall include, but not be limited to, a completed application on forms provided by the board, documentation of licensure which shall contain information concerning the requirements in force at the time the applicant was licensed, the method of licensing including examination results, date of original licensure, current status of the applicant’s license and applicable fee.

*AUTHORITY: section 346.115.1(7), RSMo Supp. 1996\*. This rule originally filed as 4 CSR 165-2.040. Original rule filed Oct. 16, 1996, effective May 30, 1997. Moved to 20 CSR 2165-2.040, effective Aug. 28, 2006. Amended: Filed Dec. 30, 2008, effective July 30, 2009.*

*\*Original authority: 346.115, RSMo 1973, amended 1981, 1993, 1995.*

## **20 CSR 2165-2.050 Continuing Education Requirements**

*PURPOSE: This rule provides the requirements for continuing education for a licensed hearing instrument specialist.*

(1) The following guidelines govern the attendance and approval of educational programs for license renewal:

(A) The board may approve individual educational programs whose curriculum provides training which enhances the licensee’s ability to dispense hearing instruments and which benefits the hearing impaired. Documentation supporting the educational program’s relevance is required. The board will automatically approve continuing education programs that are approved by the following organizations without requiring documentation supporting the educational program’s relevance:

1. International Institute for Hearing Instrument Studies (IIHIS);
2. American Speech and Hearing Association (ASHA); and
3. American Academy of Audiology (AAA);

(B) Any group or individual that wishes to sponsor an educational program to meet the standard for annual license

renewal in Missouri that is not approved by the organizations listed in subsection (1)(A) of this rule, shall submit a copy of the program schedule and outline to the board. The outline shall indicate the program subject, the number of hours required for its presentation and the identity and qualifications of the speakers and instructors and shall be submitted to the board no less than thirty (30) days prior to the presentation of the program; and

(C) The licensee may submit the information outlined in 20 CSR 2165-2.050(1)(B) to the board for review and approval of a particular class.

(2) The board, for good cause shown, may approve continuing education hours or waive continuing education hours required for an individual licensee in lieu of satisfying the requirements of 20 CSR 2165-2.050(1) and 20 CSR 2165-2.060. The board may make such approval or waiver conditional. A request for approval or waiver of continuing education hours shall be submitted in writing to the board no less than thirty (30) days prior to the continuing education requirement deadline for which the approval or waiver is sought.

(3) Each licensee shall be provided with evidence of attendance from the sponsoring organization. This evidence shall be in the form of documentation received from the sponsoring organization, showing the name of the course, date, place, and hours of attendance. All licensees shall maintain full and complete records of all approved continuing education hours earned for the two (2) previous reporting periods in addition to the current reporting period.

*AUTHORITY: sections 346.095 and 346.115, RSMo Supp. 2011. \* This rule originally filed as 4 CSR 165-2.050. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed July 30, 2001, effective March 30, 2002. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2165-2.050, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Dec. 2, 2011, effective June 30, 2012.*

*\*Original authority: 346.095, RSMo 1973, amended 1981, 1995, 2009 and 346.115, RSMo 1973, amended 1981, 1993, 1995, 2009.*

## **20 CSR 2165-2.060 License Renewal**

**PURPOSE:** *This rule clarifies the license renewal requirements and procedures.*

(1) Every licensed hearing instrument specialist must notify the Board of Examiners for Hearing Instrument Specialists of every change in their office address(es) within fifteen (15) working days.

(2) Every licensed hearing instrument specialist shall display his/her current license in a conspicuous place in his/her office. A hearing instrument specialist working outside of the office shall have available for review his/her current official wallet license at all times.

(3) Each person who engages in the fitting and selling of hearing instruments shall, on or before the renewal date, pay the required fees, present annual receipts of calibration of all audiometers and obtain satisfactory evidence that continuing education requirements have been completed. No person whose license has expired and who applies for renewal will be required to submit to an examination as a condition of renewal, if this renewal application is made within two (2) years from the date of expiration.

(4) Prior to January 1, 2004, the following guidelines govern the attendance of educational programs for annual license renewal:

(A) The licensee shall provide evidence of attendance upon request of the board. Every licensee shall maintain full and complete records of all approved continuing education hours earned for the two (2) previous reporting periods in addition to the current reporting period. Such records shall include all attendance certificates of approved continuing education hours. The board may conduct an audit of licensees to verify compliance with the continuing education requirements. Licensees shall provide all approved continuing education certificates to the board within fifteen (15) days of the board's request of such documentation;

(B) This evidence must demonstrate that the licensee attended a minimum of twelve (12) hours of approved educational hearing instrument programs during the current reporting period; and

(C) The continuing education reporting period shall consist of a one (1)-year period. It shall begin on January 1 and end on December 31 of that same year.

(5) Effective January 1, 2004, the following guidelines govern the attendance of educational programs for biennial license renewal:

(A) The licensee shall provide evidence of attendance upon request of the board. Every licensee shall maintain full



and complete records of all approved continuing education hours earned for the two (2) previous reporting periods in addition to the current reporting period. Such records shall include all attendance certificates of approved continuing education hours. The board may conduct an audit of licensees to verify compliance with the continuing education requirements. Licensees shall provide all approved continuing education certificates to the board within fifteen (15) days of the board's request of such documentation;

(B) This evidence must demonstrate that the licensee attended a minimum of twenty-four (24) hours of approved educational hearing instrument programs during the current reporting period;

(C) The continuing education reporting period shall consist of a two (2)-year period. It shall begin on January 1 of even numbered years and end on December 31 of the following year.

(6) When an organization owns or leases all or a portion of the audiometers utilized by the hearing instrument specialist employed, the organization must submit annual receipt of calibration as required in 20 CSR 2165-2.060(3). A hearing instrument specialist employed with such an organization who utilizes only this equipment may reference this annual receipt as evidence of compliance with his/her annual calibration requirements.

(7) The first twelve (12) hours of the continuing education requirements will be waived during the initial year of licensure as a hearing instrument specialist. Effective January 1, 2004, the new licensee will be required to obtain the remaining twelve (12) hours of the twenty-four (24) hour continuing education requirement should the licensee become licensed in the first year of the continuing education reporting period. If the new licensee becomes licensed in the second year of the continuing education reporting period the continuing education requirement shall be waived for that reporting period.

(8) Reactivation of Non-current License.

(A) Any hearing instrument specialist license, which is not renewed prior to the expiration date of the license, shall become non-current. Persons with non-current license shall not engage in the fitting of hearing instruments.

(B) In order to reactivate a non-current license the hearing instrument specialist must submit the following:

1. Renewal application;
2. Renewal fee;
3. Reactivation fee;
4. Annual calibration receipt;
5. Prior to January 4, 2004, proof of twelve (12) hours of attendance at an approved continuing education program(s). These hours must have been obtained during the preceding twelve (12) months from the date of application for reactivation;
6. Effective January 2004, proof of twenty-four (24) hours of attendance at an approved continuing education program(s). These hours must have been obtained during the preceding twenty-four (24) months from the date of application for reactivation.

(C) Hearing instrument specialists may reactivate a non-current license within two (2) years of its expiration date. Any hearing instrument specialist license not reactivated within two (2) years of the expiration date shall become void.

(9) Inactive License

(A) A hearing instrument specialist may choose to place his/her license on an inactive status by signing an affidavit stating that s/he will not engage in the practice or be involved in any aspect, administrative or otherwise, of the practice of fitting hearing instruments in Missouri, which would include serving as a supervisor of a hearing instrument specialist in training and submitting that affidavit with the renewal application and the appropriate fee to the board office. The license issued to all these applicants shall be stamped "Inactive".

(B) In order for a hearing instrument specialist to activate an inactive license, the licensee shall submit to the board office:

1. The renewal application;
2. The balance of the active renewal fee. No fee will be prorated.
3. Evidence that the licensee has completed the required continuing education credits in accordance with 20 CSR 2165-2.060(5) for each renewal cycle that the license is inactive. These required approved continuing education credits

shall not exceed a total of fifty (50) hours. These hours must have been obtained during the preceding twenty-four (24) months from the date of application for restoration to active status;

4. Annual Calibration receipt;

5. The license stamped "Inactive" and

6. Registered supervisors must submit proof of current board certification.

(C) The board will issue an active license, which shall be effective until the next regular renewal date. No penalty fee shall apply.

*AUTHORITY: section 346.095 and 346.115.1(7), RSMo 2000.\* This rule was originally filed as 4 CSR 165-2.060. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Amended: Filed July 30, 2001, effective March 30, 2002. Amended: Filed April 1, 2003, effective Sept. 30, 2003. Moved to 20 CSR 2165-2.060, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Jan. 30, 2009.*

*\*Original authority: 346.095, RSMo 1973, amended 1981, 1995; and 346.115.1(7), RSMo 1973, amended 1981, 1993, 1995.*

## **20 CSR 2165-2.065 Renewal of Licenses for Military Members**

**PURPOSE:** *This rule sets forth the procedure for renewal of a license held by a licensee on active military duty and for discipline of a license held by a licensee on active military duty.*

(1) Any individual holding a current hearing instrument specialist license that is engaged in the performance of active military duty who has their license lapse while performing such military service, may renew or reinstate such license without penalty by—

(A) Filing with the board a Notice of Active Military Duty on a form provided by the board or by written communication accepted by the board that shall be signed and dated by the licensee and shall contain the licensee's name, address, the type of license or registration, license number, and the date of active duty activation, and shall be accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active military duty; and

(B) Filing such Notice of Active Military Duty or accepted written communication with the board no later than sixty (60) days after completion of the active duty military service.

(2) Upon receipt and approval of the Notice of Active Military Duty or accepted written communication, the board shall reinstate the individual's license with no further requirements.

(3) If a licensee fails to take any required action or fails to meet any required obligation of the board while the licensee is on active military duty, the licensee shall have at least one hundred eighty (180) days after the end of his or her active military duty to take those actions or fulfill those obligations before any administrative action can be taken by the board.

(4) If the board desires to initiate disciplinary action, administrative action, or any other proceeding where the licensee is a necessary party and the licensee is on active military duty, the board shall stay such action or proceeding until at least sixty (60) days after the licensee returns from active duty.

*AUTHORITY: sections 41.950, 324.008, and 346.125, RSMo 2016.\* Original rule filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 41.950, RSMo 1991, amended 2007, 2009, 2011; 324.008, RSMo 2011; and 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## **20 CSR 2165-2.070 Public Complaint Handling and Disposition Procedure**

**PURPOSE:** *This rule establishes a procedure for the receipt, handling, and disposition of public complaints by the board.*

(1) The office will receive and process each complaint made against any licensee or hearing instrument specialist in training when a complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 346, RSMo. Any member of the public or the profession, or any federal, state, or local official may make and file a complaint with the department. Complaints from sources outside Missouri will be received and processed in the same manner as those originating within Missouri. No member of the board shall file a complaint with this division while they hold that office, unless the member excuses him/herself from further board deliberations or activity concerning matters alleged within that complaint. Any executive director or any staff member within the division may file a complaint pursuant to this rule in the

same manner as any member of the public.

(2) Complaints should be sent to the board at: Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO, 65102-1335 or behis@pr.mo.gov. Complaints may be made based upon personal knowledge or upon information and belief reciting information received from other sources.

(3) All complaints shall be made in writing and fully identify the complainant by name and address. Complaints shall be made on forms provided by the board. Oral or telephone communication will not be considered or processed as complaints. However, the person making this communication will be provided with a complaint form and requested to complete it in writing and return it to the office.

(4) Each complaint received under this rule shall be acknowledged in writing. The licensee or subject of the complaint shall be informed as to whether the complaint is being investigated. Both the licensee and the complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and be provided with copies of the ultimate disposition (if any) of the Administrative Hearing Commission and the board. The provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the division.

(5) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint or their legal counsel.

(6) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee or hearing instrument specialist in training with any actionable conduct or violation, whether or not any public complaint has been filed with the board.

*AUTHORITY: section 346.125, RSMo 2016.\* This rule originally filed as 4 CSR 165-2.070. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-2.070, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.125, RSMo 1973, amended 1981, 1995, 2009.*



**Title20-- DEPARTMENT OF COMMERCE AND INSURANCE**  
**Division 2165--Board of Examiners for Hearing Instrument Specialists**  
**Chapter 3--Code of Ethics**

**20 CSR 2165-3.010 General Obligations of the Licensee**

**PURPOSE:** *The purpose of this Code of Ethics to be implemented through the Board of Examiners for Hearing Instrument Specialists (hereafter referred to as the "board"), is to benefit and uphold the public health, safety, and welfare in the performance of professional services, avoid the appearance of impropriety, and provide competent services according to professional and ethical obligations.*

- (1) It is fitting for the profession to have standards of excellence which set it apart, help it to self-govern, and enable its members to qualify as professionals. Therefore, this Code of Ethics is binding upon every person licensed by the board to practice the fitting of hearing instruments as defined in section 346.010(11), RSMo. In these rules of professional conduct, the word "licensee" shall mean any hearing instrument specialist, hearing instrument specialist in training, or registered supervisor.
- (2) By applying for or becoming a hearing instrument specialist or hearing instrument specialist in training, a person shall—
  - (A) Comply with and uphold the Code of Ethics defined in these rules; and
  - (B) Understand and be familiar with sections 346.010 to 346.250, RSMo, also known as the Hearing Instrument Specialists Act.
- (3) It shall be unethical for a hearing instrument specialist in training to misrepresent or mislead, directly or by implication, prospective purchasers into the erroneous belief that the hearing instrument specialist in training is licensed as a hearing instrument specialist by the state of Missouri by—
  - (A) Omitting "hearing instrument specialist in training" from business cards, advertising, or any other industry document bearing his/her name; or
  - (B) Representing him/herself implicitly through silence as a licensed hearing instrument specialist.
- (4) It shall be unethical for a registered supervisor of a hearing instrument specialist in training to—
  - (A) Fail to provide the training and supervision pursuant to 20 CSR 2165-2.010 to a hearing instrument specialist in training; or
  - (B) Misrepresent, either directly or by implication, the process for review of the performance of a hearing instrument specialist in training.
- (5) It is incompetency in the practice of selling and fitting hearing instruments if each of the following testing procedures is not used before a client is fit:
  - (A) Visual otoscopy;
  - (B) Air conduction, with masking where appropriate;
  - (C) Bone conduction, with masking where appropriate;
  - (D) Speech reception threshold, with masking where appropriate and utilizing test equipment with a calibrated circuit;
  - (E) Word discrimination, with masking where appropriate and utilizing test equipment with a calibrated circuit;
  - (F) Most Comfortable Level (MCL) or discredits, with masking where appropriate and utilizing test equipment with a calibrated circuit; and
  - (G) Uncomfortable Loudness Level (UCL) or discredits while utilizing test equipment with a calibrated circuit.
- (6) The results of these tests shall be recorded in writing and retained in the client's file for a period of three (3) years from the date of the test.

*AUTHORITY: section 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-3.010. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008. Amended: Filed Sept. 25, 2019, effective March*

## **20 CSR 2165-3.020 Deceptive Practices**

**PURPOSE:** *This rule protects the public by requiring full disclosure of the type and extent of the relationship between the licensee and the consumer.*

- (1) It shall be an unfair and deceptive practice to engage in bait advertising as defined in Chapter 407, RSMo. In determining whether there has been a violation of this rule, consideration will be given to acts or practices that demonstrate that the advertising offer was not made in good faith for the purpose of selling the advertised product or service, but was made for the purpose of selling a product or service other than the product or service offered to the prospective purchaser.
- (2) It shall be an unfair and deceptive practice for the licensee to misrepresent—
  - (A) The manufacturer, model, quantity, price, terms of sale, type, performance, fit, benefits, or resistance to climatic conditions;
  - (B) Any service or adjustment offered, promised, or to be supplied to purchasers of any product;
  - (C) Any material fact pertaining to the manufacturer, distribution, or marketing of any product;
  - (D) The scientific or technical knowledge, training, experience or other qualifications of the licensee, or of his/her employees, relating to the selection, fitting, adjustment, maintenance or repair of any product;
  - (E) The repair ability, including the cost thereof, or the adequacy of a prospective purchaser's own hearing instrument or ancillary equipment; and
  - (F) For the purpose of this rule "misrepresent" shall mean making misleading, deceiving, improbable or untruthful representations, or in any other material respect, regarding the character, intent, or type of business.
- (3) It shall be an unfair and deceptive practice for the licensee to misrepresent in advertising or otherwise misrepresent that a hearing instrument has a guarantee, warranty, or promise similar in nature without a clear and conspicuous disclosure of—
  - (A) The nature and extent of the guarantee;
  - (B) Any material conditions or limitations in the guarantee which are imposed by the guarantor;
  - (C) The manner in which the guarantor will perform the guaranteed services; and
  - (D) The identity of the guarantor. The necessary disclosure requires that any guarantee made by the licensee which is not binding upon the manufacturer must clearly state that the guarantee is offered by the licensee only.
- (4) It shall be an unfair and deceptive practice for the licensee to represent, unless it is true, directly or indirectly through the use of any word or term in his/her corporate or trade name, in his/her advertising, or otherwise—
  - (A) That the licensee is a manufacturer of hearing instruments or devices, batteries, parts, or accessories; and
  - (B) That the licensee is the owner or operator of a factory or producing company manufacturing such products.
- (5) It shall be an unfair and deceptive practice, for the licensee directly or by implication to—
  - (A) Omit disclosure that instruments have been used, or contain used parts. In such cases the licensee shall make full and non- deceptive disclosure of such facts in all advertising and promotional literature relating to the product, on the container, box, or package in which such product is packed or enclosed. The required disclosure shall be made by both verbal and written use of such words as "used," "secondhand," "repaired," or "rebuilt," whichever most accurately describes the product involved; and
  - (B) Misrepresent the identity of the rebuilder of the hearing instrument. If the rebuilding of the hearing instrument was done by other than the original manufacturer, the licensee shall disclose such fact whenever the original manufacturer is identified.
- (6) It shall be an unfair or deceptive practice for the licensee to represent, either directly or by implication, through the use of words or expressions that any hearing instrument, device or part is hidden or cannot be seen unless such is the fact.

(7) The licensee shall not misrepresent, either directly or by implication, that batteries sold only by such licensee or bearing a specified brand, label, or other identifying mark, are the only batteries suitable for use in a particular type or make of hearing instrument or device when such is not the fact. It shall also be unethical to imply in any manner, that a hearing instrument does not need batteries when such is not the case.

(8) It shall be an unfair, deceptive practice or unethical conduct for the licensee to advertise or otherwise represent to prospective purchasers any statement which has the capacity and tendency or effect of misleading them into the belief that any hearing instrument or device, or part or accessory therefor, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(9) It shall be an unfair or deceptive practice and unethical conduct for the licensee to—

(A) Represent or use any seals, emblems, shields, or other insignia which represent, directly or by implication, in any manner that a hearing instrument or device has been tested, accepted, or approved by any individual, organization, group, or association, unless such is the fact and unless the hearing instrument or device has been tested by such individual, organization, group, or association in such manner as reasonable to insure the quality and performance of the instrument in relation to its intended usage and the fulfillment of any material claims made, implied, or intended to be supported by such representation or insignia; and

(B) Make any other false, misleading, or deceptive representation respecting any testing, acceptance, or approval of a hearing instrument or device by any individual, organization, group, or association.

(10) When the licensee initiates contact through direct mail or other advertisement, the licensee shall display clearly on each promotional item the business/establishment name, the principal establishment's street address and telephone number.

*AUTHORITY: section 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-3.020. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1987. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.020, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.125, RSMo 1973, amended 1981, 1995, 2009.*

## **20 CSR 2165-3.030 Medical Clearance and Waivers**

**PURPOSE:** *This rule outlines and explains the licensee's responsibilities and requirements to represent him/herself accurately to the public.*

(1) All licensees shall clearly communicate to every purchaser, prior to the purchase, that s/he is not conducting an examination, diagnosis, or prescription by a person licensed to practice medicine in the state of Missouri, and therefore his/her opinions must not be regarded as medical opinion or advice.

(2) It shall be an unfair or deceptive practice for the licensee to misrepresent, either directly or by implication that the services of a physician have been used in the designing or manufacturing of hearing instruments, or in the selection, fitting, adjustment, maintenance, or repair of hearing instruments or ancillary products unless it is true.

(3) A licensee shall not represent, directly or by implication, in any manner as to have the capacity and tendency to mislead prospective purchasers into the belief that justifies disparagement of physicians or any other professional in the medical community.

(4) Should a purchaser refuse to consult a physician after being advised to do so by the licensee, the purchaser must sign a medical waiver, in accordance with federal law, which must be a part of or attached to the purchase agreement.

*AUTHORITY: section 346.125, RSMo 2016. \* This rule originally filed as 4 CSR 165-3.030. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.030, effective Aug. 28, 2006. Amended: Filed Sept. 25, 2019, effective March 30, 2020.*

*\*Original authority: 346.125, RSMo 1973, amended 1981, 1995, 2009.*





